

SENTENCING COMMISSION MINUTES

Committee		Utah Sentencing Commission – Annual Meeting
Date	Wednesday, April 1, 2015	
Time	8 a.m. – 4 p.m.	
Location	Utah State Capitol, Senate Caucus Room	
Members Present	Patrick Anderson, Chyleen Arbon, Shima Baradaran, Craig Barlow, Chief Craig Black, Paul Boyden, Susan Burke, Darin Carver, Rollin Cook, Al Emery, Scott Garrett, Rachelle Hill, Judge Scott Johansen, Rep. Brian King, Judge Thomas Low, Judge Julie Lund, Richard Mauro, Judge Gregory Orme, Senator Dan Thatcher, Judge Vernice Trease, Pam Vickrey, Carlene Walker, Christina Zidow	
Members Excused	Senator Gene Davis, Ron Gordon, Rep. Marc Roberts, Sheriff James Tracy	
Staff & Visitors	Staff: Jo Lynn Kruse, Cuong Nguyen, Sofia Nystrom, Jennifer Valencia, David Walsh, Doreen Weyland Visitors: Susan Allred, Dan Blanchard, Anna Brower, Rob Butters, Julie Christenson, Glen Collett, Len Engel, Jesse Gallegos, Mike Haddon, Brent Kelsey, Daniel Larsen, Geri Miller-Fox, Debra Moore, Doug Thomas	
Agenda Item	Welcome and Approval of Minutes, Introduction of New Members, Review of by-laws, Leadership Changes	
Notes	<p>Carlene Walker called the meeting to order and welcomed everyone. Carlene introduced new members Rep. Brian King (replaces Rep. Jen Seelig), Scott Garrett (replaces David Brickey) and Chyleen Arbon, (replaces Jesse Gallegos) from the Board of Pardons.</p> <p>Patrick Anderson made a motion to approve the January minutes. Richard Mauro seconded the motion which passed unanimously.</p> <p>Carlene Walker drew our attention to the by-laws, which were approved in June 2012. Carlene stated that generally we hold election of officers at this meeting, and then announced the she is resigning as Chair of the Sentencing Commission and she and her husband will begin serving a mission in June for the LDS Church in Frankfurt, Germany. The tradition on this Commission has been that a Governor's appointee serves as Chair. So election of officers will be deferred until the June meeting. If any of you are interested in serving as vice-chair, please do not hesitate to contact Jennifer Valencia. There will be an extra meeting in May which Carlene will chair.</p>	
Agenda Item	Legislative Update & Discussion (tape part 1)	
Notes	<p>Jennifer reviewed the sentencing related legislative changes that took place this year. The summary includes all the bills that passed this legislative session on which the Commission took a position. A document will be posted on the Sentencing Commission website with those bills relevant to sentencing.</p> <p>Four priority bills all passed: HB 348 Criminal Justice Programs and Amendments – This Bill, sponsored by Rep. Hutchings, was signed yesterday by the Governor. We are still in process of finalizing a comprehensive list on traffic misdemeanor reclassifications. Most are one-step reductions, and do not include DUI or release. Controlled substance reclassifications become effective Oct. 1, 2015.</p> <p>The Sentencing Commission's task is to revise the criminal history scoring to eliminate double counting and focus on factors relevant to re-offense, and the Division of Substance Abuse and Mental Health directives are effective May 12, 2015. Jennifer reviewed effective dates of directives for DOC, BOP, Judiciary, CCJJ, DLD and Division of Substance Abuse and Mental Health.</p> <p>HB215 Sex Offender Registry Amendments, sponsored by Rep. Draxler SB59 Domestic Violence Amendments, sponsored by Senator Weiler SB115 Assault Offenses Amendments, sponsored by Senator Thatcher</p>	

Bills we supported or supported in concept which passed:

HB74 Consent Definition for Sexual Offense
HB184 Victim Restitution Amendments
HB353 Probation Amendments
SB136 Statute of Limitations for Criminal Fines, Fees, Restitution
HB83 Crimes Against Health Care Providers in Correctional System
HB85 Peace Officer Training Amendments
HB212 Wild Land Fire Liability Amendments
HB454 S02 Prison Development Amendments
HB284 S02 Minor Alcohol or Drug Related Offenses and Driving Privileges
SB167 Juvenile Offender Amendments
HB146 DUI Revisions
HB415 S05 Regulation of Electronic Cigarettes
SB146 Driving Privilege Amendments
SB181 Driver License Modifications
SB265 S01 Abuse Deterrent Opioid Analgesic Drug Products
SB24 Department of Financial Institutions Amendments
SB109 Removal from Database Amendments
SB141 S01 Judiciary Amendments
SB214 Veterans Court

Bills We Opposed Which Passed:

HB131 S03 Tobacco Shop Amendments
HB340 Voter Preregistration Amendments
SB82 S01 Forcible Entry Amendments
SB119 S01 Prescription Database Revisions
SB150 DUI Sentencing Revisions

Financial Bills:

HB24 S03 Insurance Modifications
HB378 S02 White Collar Crime Registry
SB93 S02 Uniform Commercial Code Filing Amendments
SB207 S06 Political Activity Amendments

Sexual Offenses:

HB252 Human Trafficking Amendments
HB277 Statute of Limitations for Sexual Offenses
SB113 Sex Offender Testing Amendments
SB238 Prostitution Amendments

Exemptions:

HB72 S01 Ballot Publishing Amendments
HB104 S02 Cow-Share Program Amendments
HB140 Sovereign Lands Around Bear Lake
HB158 Drill Status Travel Amendments
SB79 Impeachment Amendments

Animal Offenses:

HB254 Livestock Branding Amendments
HB261 Horse Tripping Amendments
HB317 Destruction of Livestock
SB134 S03 Game Fowl Fighting Amendments
SB163 Wildlife Modifications

2015 Penalty Changes

One new 1st degree felony, Five new 3rd degree felonies, eleven new Class A misdemeanors, 15 new Class B misdemeanors, 39 new Class C misdemeanors, 156 new infractions and 9 new fines or fees.

Agenda Item	Implementation of HB348, Introduction of Implementation Coordinator, Technical Assistance (tape 1:22)
Notes	<p>Jennifer showed a short video titled <i>The Growth of Incarceration in the U.S.</i> available for viewing at https://www.youtube.com/watch?v=I-kFNDIzL9k. This video shows the findings of the NRC report <i>The Growth of Incarceration in the United States: Exploring Causes and Consequences</i>. Our nation's reliance on imprisonment has not clearly improved public safety and may have had large unwanted consequences for society. The report urges policymakers to reconsider sentencing policies and to seek crime-control strategies that are more effective, with better public safety benefits and fewer unwanted consequences.</p> <p>Jennifer introduced Doreen Weyland from CCJJ as the Justice Reinvestment Initiative Coordinator. Doreen will insure that deadlines are met and will monitor the incentive grants. Carlene introduced and thanked Len Engel, the Managing Associate for Policy at the Crime and Justice Institute at CRJ, for his countless hours of work and support on this issue. Carlene pointed out the 2015 JRI Implementation Timeline and Meeting schedule included in the handouts.</p> <p>Carlene asked the Commission to view Form 1, the matrix, and to have a preliminary vote on it, with a final vote at the August meeting. Paul Boyden made the motion to accept the Form 1 matrix. Patrick Anderson seconded the motion which passed unanimously.</p>
Agenda Item	Data & Update from Department of Corrections (tape Part 2)
Notes	<p>Mike will not doing a data presentation today, because so many changes have been made as a result of HB348. Mike gave an overview of the DOC's initial assessment of JRI implementation issues for the Department of Corrections. It has only been a couple weeks since the legislative session has ended and DOC is in the beginning stages of assessment and evaluation. The DOC has taken sections of statute and brought together leaders of various organizations and began brainstorming. The following is a rough draft of work to be done:</p> <p>Presentence Investigation – Possible new PSI format, change from LSI-R to LSI-RNR, changes in sentencing/release guidelines, and initiate case action plan</p> <p>Case Action Planning (CAP) – Streamline CAP process, coordinate with BOP to identify programs for earned time credit, track/notify earned time credits and develop transition process</p> <p>Probation & Parole – Develop/implement sanctions and rewards matrix, develop credit tracking for earned credit and develop/coordinate tracking of incarceration days</p> <p>Standards/Certification of Treatment Services – Collaborate with DSMH & USAAV to develop treatment standards, collaborate to develop treatment certification process, and develop/coordinate tracking of incarceration days</p>
Agenda Item	Data & Update from Department of Human Services (tape 39:30 part 2)
Notes	<p>Doug Thomas reviewed provisions required by HB 348:</p> <ul style="list-style-type: none"> • Define criminal risk factors and require these factors be considered in providing mental health and substance abuse treatment through governmental programs to individuals involved in the criminal justice system • Establish standards for mental health and substance abuse treatment and for treatment providers, concerning individuals who are incarcerated or who are required by a court or BOP to participate in treatment • Track performance and outcome data and make that information available to the public • Analyze specified programs and practices, and provide recommendations to the legislature • Require that the DOC in collaboration with CCJJ, the Division of Substance Abuse and Mental Health, and UAC to gather information related to treatment and program outcomes, and provide the information to CCJJ. <p>Doug also discussed DSAMH directives and proposed formula allocations.</p>
Agenda Item	Recognition of Departing Commission Members (tape 52:00 part 2)

Notes	Jesse Gallegos and Chris Roach were recognized for their years of service on the Sentencing Commission. Jesse as BOP Representative (2012 – 2015) and Chris as Juvenile Justice Services Representative (2014). The Commission also thanked Carlene for many years of service (2009 – 2015) to the Commission as Chair. Thank you all for your dedication and time.
Agenda Item	Subcommittee Updates & Pending Projects (tape part 3)
Notes	<p>Jennifer gave updates on the subcommittees' work.</p> <p>Juvenile Subcommittee – The 2015 Juvenile Disposition Guidelines were published (first republication since 2004); addressed revisions to prefatory language; revisions to the matrix itself are still pending; incorporation of sex offenses also still pending. SB167 address multiple issues characterized as addressing “overly aggressive prosecution” of juvenile offenders, stopping the “school to prison pipeline,” and comprehensive reform referred to as “Juvenile Justice Reinvestment.” JJS currently engaged with CSG in comprehensive reform efforts. Jennifer asked Pam Vickrey to act as Chair for the juvenile subcommittee if we continue.</p> <p>Justice Courts Subcommittee – Have begun development of misdemeanor sentencing guidelines; identifying nature of misdemeanor offenses warranting specific identification for imposition of jail time; developing recommendations for limited use of jail time for all others. HB348 addressed treatment provider certification and standards as well as less serious traffic offense re-categorization. SB115 & SB59 originated from this subcommittee. Jennifer asked Senator Thatcher and Judge McCullagh to co-chair if continued.</p> <p>Anomalies Subcommittee – Coordinated with CCJJ on HB348, which addressed drug free zone enhancements, drug penalties, and evidence based practices generally. Met with Senator Hillyard and AOC, but could not reach agreement on collateral consequences of convictions notice. HB252 addressed human trafficking. Subcommittee also met with Rep. Ray regarding HB11, but could not reach agreement on death penalty legislation.</p> <p>Guidelines Subcommittee – Coordinated with CCJJ on HB348 on incorporation of evidence-based practices generally and revisions to the guidelines. Philosophical approach statement has not been updated. Prefatory language to include evidence based practices updated with brief statement needs further elaboration consistent with HB348. Significant revisions anticipated consistent with HB348.</p> <p>AP&P Guidelines/Matrix Subcommittee – HB348 addressed this issue in detail. Implementation pilot in 2nd District April 1 – June 30; feedback to Board of District Court Judges expected at July meeting.</p>
Agenda Item	Research & Projects Update U of U Criminal Justice Center (tape 1:03 part 3)
Notes	<p>Rob Butters, Assistant Professor, College of Social Work, University of Utah, spoke about three studies conducted during this last year that are relevant to the Justice Reinvestment Initiative (Early Case Resolution, Program Evaluation Process and Correctional Program Checklist). They will be evaluating eight DORA programs this next year.</p> <p>Rob talked about Risk Principle and how we need to target those offenders with a higher probability of recidivism, and provide the most intensive treatment to those higher risk offenders and how intensive treatment for lower risk offenders can actually increase recidivism. Treatment is much more effective than punishment and we need more rigorous outcome evaluation. Not all treatment programs are equal. Most treatment providers are not good at identifying criminogenic needs and the treatment community needs more education and training. Rob’s studies reveal that Utah lags in our use of offender assessment, cognitive behavioral therapy and quality assurance.</p> <p>The goals of ECR are: Faster case processing, provide “same justice sooner”, access to treatment services, and reducing recidivism. Lesson learned from the ECR study is that in order to improve outcomes and reduce recidivism, cost and increase public safety, we must have brief screenings, good assessments and evidence-based treatment resources for offenders. The full report on Evaluation of Early Case Resolution is available at http://ucjc.utah.edu/adult-offenders/ecr.</p>
Agenda Item	Data & Update from Juvenile Justice Services (tape part 4)
Notes	Susan Burke, Director of Juvenile Justice Services, spoke about <i>Juvenile Justice: Past, Present Future</i> . There are four core principles for reducing recidivism and improving other outcomes for youth in the juvenile justice system.

	<p>Core Principle 1: Base supervision, service, and resource allocation decisions on the results of validated risk and needs assessments.</p> <ul style="list-style-type: none"> • The majority of youth admitted to detention are not due to felony offenses • Youth's treatment needs are not assessed fully or in a resource efficient manner • Lengths of stay in secure facilities are not based on the time needed for effective treatment and efficient use of resources • Lengths of stay in community placements are based largely on service provider discretion <p>Core Principle 2: Adopt and effectively implement programs and services demonstrated to reduce recidivism and improve other youth outcomes, and use data to evaluate the results and direct system improvements.</p> <ul style="list-style-type: none"> • Few evidence based services are available to youth in the community • Resources are not being maximized to ensure youth receive effective services <p>Core Principle 3: Employ a coordinated approach across service systems to address youth's needs.</p> <ul style="list-style-type: none"> • Key opportunities for JJS and juvenile court collaboration going unrealized <p>Core Principle 4: Tailor system policies, programs, and supervision to reflect the distinct developmental needs of adolescents.</p> <ul style="list-style-type: none"> • High reliance on residential placement as a response to contempt offenses <p>Three Key Recommendations:</p> <ol style="list-style-type: none"> 1. Invest in evidence-based community services 2. Establish evidence-based program models for all secure facilities and community placements 3. Use objective criteria to improve supervision and service decisions <p>Over the new few months, the CSG Justice Center will support JJS to form a working group of JJS staff and other system stakeholders and establish an action plan to advance key policy and practice changes.</p>
Agenda Item	Discussion & Prioritization of Master Study List (tape 37:00 part 4)
Notes	Jennifer drew attention to the 2015 Potential Study Items handout and asked the Commission to review and come prepared to discuss in June. Also decide what subcommittee you fit into. Patrick would like to reevaluate property crimes. Judge Low would like to discuss jail as a condition of probation matrix and revise Form 5. Paul Boyden would like to look at locating the diagnostic unit somewhere other than the prison, shock incarceration study and reducing the 25 to life sentence for sex offenses.
Agenda Item	Designation of Active Subcommittees & Charge (tape 33:00 part 4)
Notes	The Commission agreed to keep the juvenile subcommittee active and request that Scott Garrett replace David Brickey, Susan Burke replace Chris Roach, Cuong Nguyen replace Reg Garff and Pam Vickrey to serve as Chair. Al Emery made the motion to accept all. Craig Barlow seconded the motion which passed unanimously .
Next Meeting	The next meeting will be on June 3, 2015, Utah State Capitol Bldg., Senate Caucus Room

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ